

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ASHLEY DRACKERT,)	
)	
Plaintiff,)	Case No.: 19-cv-1185
)	
vs.)	Circuit Court of the 11 th Judicial
)	Circuit, St. Charles County, Missouri
FORT ZUMWALT R-II)	Case No. 1911-CC00341
SCHOOL DISTRICT,)	
)	
BOARD OF EDUCATION OF)	JURY TRIAL DEMANDED
FORT ZUMWALT SCHOOL DISTRICT,)	
COUNTY OF ST. CHARLES, STATE)	
OF MISSOURI,)	
)	
MIKE SWARINGIM, Board President)	
)	
MIKE MACCORMACK, Board Vice)	
President,)	
)	
SCOTT GRASSER, Board Member,)	
)	
JOHN CALLAHAN, Board Member,)	
)	
CRAIG MOORE, Board Member,)	
)	
ERICA POWERS, Board Member,)	
)	
TOMMY GEORGE, JR., Board Member)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants Fort Zumwalt R-II School District; Board of Education of Fort Zumwalt School District, County of St. Charles, State of Missouri; Mike Swaringim; Mike MacCormack; Scott Grasser; John Callahan; Craig Moore; Erica Powers; and Tommy George, Jr. ("District Defendants"), by and through their attorneys, TUETH KEENEY COOPER MOHAN & JACKSTADT, P.C, and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446 hereby remove the above-

captioned case from the 11th Judicial Circuit Court of St. Charles County, Missouri, to the United States District Court for the Eastern District of Missouri. In support of this removal, District Defendants state the following to the Court:

1. On April 2, 2019, Plaintiff Ashley Drackert, (“Plaintiff”) filed a Petition (“Petition”) in the 11th Judicial Circuit Court of St. Charles County, Missouri; Case No. 1911-CC00341.

2. District Defendants have not yet been served with a copy of the Petition, but Plaintiff’s attorney sent undersigned counsel a copy of the Petition via electronic mail on April 15, 2019.

3. On April 16, 2019, undersigned counsel informed Plaintiff’s attorney they will accept service on behalf of the Defendants, however, to date no service attempts have been made. Defendants’ counsel did acknowledge receipt of Plaintiff’s Petition in their response to Plaintiff’s attorney via electronic mail on April 16, 2019.

4. This Notice of Removal is timely under 28 U.S.C. § 1446(b) as this Notice is being filed “within 30 days after receipt by defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief.”

5. Pursuant to 28 U.S.C. § 1446(a), attached to this Notice of Removal is a copy of the original Petition filed in the 11th Judicial Circuit Court of St. Charles County, Missouri. The Petition is attached hereto as **Exhibit A**.

6. District Defendants have not filed an Answer or otherwise responded to Plaintiff’s Petition in the 11th Judicial Circuit Court of St. Charles County, Missouri.

7. Pursuant to 28 U.S.C. § 1331, and as explained further below, this Court has original jurisdiction over the instant action based on Plaintiff’s claims arising under the Title I of

the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, *et seq.*; the Family and Medical Leave Act, 29 U.S.C. §§ 2615 & 2617 (“FMLA”); and 42 U.S.C. § 1983. See Petition, ¶ 1.

8. The Court has supplemental jurisdiction over Plaintiff’s remaining claims deemed to arise under the laws of the state of Missouri pursuant to 28 U.S.C. § 1367(a).

9. Venue of this removal is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division corresponding to the place where the state court action was pending.

10. This action is not an action described in 28 U.S.C. § 1445(a) through (d).

11. Pursuant to 28 U.S.C. § 1446(d), a true and accurate copy of this Notice of Removal will be filed with the Clerk of the 11th Judicial Circuit Court, St. Charles County, Missouri, as Notice to Clerk of Filing Removal, attached hereto as **Exhibit B**.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been served upon Plaintiff, through Plaintiff’s counsel, Kevin J. Kasper and Ryan P. Schellert, as Notice to Plaintiff of Removal.

13. District Defendants, by this Notice, has satisfied all jurisdictional requirements for the removal of this action from the 11th Judicial Circuit Court of St. Charles County, Missouri, to the United States District Court for the Eastern District of Missouri.

14. Also filed with this Notice of Removal is the Civil Cover Sheet and the Original Filing Form.

WHEREFORE, District Defendants hereby give notice that the above-captioned action is hereby removed to the United States District Court for the Eastern District of Missouri, for the reasons set forth above.

RESPECTFULLY SUBMITTED,

**TUETH KEENEY COOPER
MOHAN & JACKSTADT, P.C.**

By: /s/ Celynda L. Brasher

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MACCORMACK, SCOTT GRASSER, JOHN
CALLAHAN, CRAIG MOORE, ERICA POWERS,
AND TOMMY GEORGE, JR.***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent via the Court's electronic filing system and via electronic mail on this 3rd day of May, 2019, upon the following:

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